



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 12 2001

OFFICE OF  
CIVIL RIGHTS

**CERTIFIED MAIL # Z 480 246 038**  
**RETURN RECEIPT REQUESTED**

**In Reply Refer to:**  
EPA File No: 17R-00-R9

Ms. Bonnie Goodell  
Planning for Sustainability  
P. O. Box 6  
Volcano, HI 96785-0006

**Re: PARTIAL REJECTION / REQUEST FOR CLARIFICATION OF**  
**ADMINISTRATIVE COMPLAINT**

Dear Ms. Goodell:

This is to notify you that the U.S. Environmental Protection Agency's (EPA) Office of Civil Rights (OCR) is partially rejecting and requesting clarification on other portions of your administrative complaint dated August 8, 2000, filed on behalf of Planning for Sustainability against the State of Hawaii and the County of Hawaii. Your complaint, initially filed with the U.S. Department of Justice, alleges violations of Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.*, and EPA's implementing regulations found at 40 C.F.R. Part 7 against native Hawaiian families. The complaint alleges a broad, complex pattern of discrimination that is manifested in the Draft Hawaii Drought Plan. In furtherance of this allegation, you state that the State of Hawaii and the County of Hawaii have discriminated against a large class of low-income, native-Hawaiian residents residing mostly in Puna and Ka'u Districts by denying services, including virtually all federal funding and oversight.

For the reasons discussed below, OCR is rejecting your complaint in part, and seeking clarification from you on several other issues.

Under Title VI, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI administrative regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). A complaint must meet the jurisdictional requirements described in

EPA's Title VI regulations. First, it must be in writing. Second, it must describe alleged discriminatory acts that, if proven true, may violate EPA's Title VI regulations. Third, it must be timely filed. Under EPA's Title VI regulations a complaint must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Fourth, because EPA Title VI regulations only apply to recipients of EPA financial assistance, it must identify an EPA recipient that allegedly committed a discriminatory act. 40 C.F.R. § 7.15.

OCR has carefully reviewed your complaint and has made the following determinations. Your complaint is in writing, signed, and provides an avenue for contact. It also describes some alleged discriminatory acts affecting the largely native Hawaiian population that, if proven true, may violate Title VI and EPA's Title VI regulations. Issues relating to timeliness and the status of the State of Hawaii and County of Hawaii as recipients of EPA financial assistance are discussed below.

EPA is concerned about the allegations in your complaint regarding the State's failure to provide publicly-funded water wells to the native Hawaiian communities living in the subdivisions in Puna and Ka'u Districts, as well as the State and County's refusal to provide these communities with assistance for water development for residential use. In your allegations, however, you have not cited any specific acts, nor have you indicated the specific dates within the past 180 calendar days when such acts occurred. In order to determine whether your complaint is timely filed, OCR requests that you describe the specific alleged discriminatory acts and indicate the dates on which they occurred.

Additionally, your complaint refers to the discriminatory denial of emergency and drought services by the State of Hawaii and the County of Hawaii. However, in order to further process your complaint, OCR requests that you clarify which agency (state, county, or both) you believe discriminated in each instance, and in particular, which department or agency of the State of Hawaii you believe has discriminated. OCR needs this information to determine whether the entities complained about were recipients of EPA financial assistance at the time of the allegedly discriminatory acts.

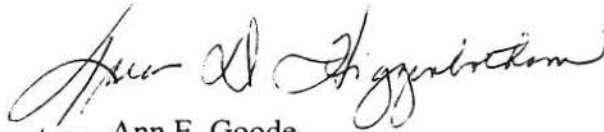
Please submit the requested information within 45 calendar days of receipt of this letter. If the requested information is not received within this period, OCR will not accept these allegations for investigation and will close the file.

Your complaint also contains allegations of discriminatory practices manifested in the Draft Hawaii Drought Plan. Because the Drought Plan is still in draft form, these allegations are not yet ripe for investigation.

Your complaint identifies the complainants as members of a class protected by Title VI, native Hawaiians, but also raises allegations of discrimination based on the residents low-income status. Please keep in mind that Title VI does not cover discrimination on the grounds of income or economic status. Finally, please be informed that the remaining allegations in your complaint (e.g., state-operated public school location, denial of access to USDA funding) fall outside of the jurisdiction of this Agency; however, they may fall within the jurisdiction of the other federal agencies with whom you have filed your complaint. Those agencies will contact you directly.

If you have any questions, please contact Mr. Mirza P. Baig in OCR by phone at (202) 564-7288, by e-mail at [baig.mirza@epa.gov](mailto:baig.mirza@epa.gov), or by mail to the U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



for, Ann E. Goode  
Director

cc: Dr. Bruce Anderson, Director :  
Hawaii Department of Health  
P. O. Box 3378  
Honolulu, HI 96801

The Honorable Harry Kim  
Mayor, County of Hawaii  
25 Aupuni Street  
Hilo, HI 96720

Sebastian Aloit  
Coordination and Review Section  
Civil Rights Division  
Department of Justice  
P.O. Box 66560  
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Anna Wolgast, Acting General Counsel  
Office of General Counsel (MC 2310A)

Rafael DeLeon, Associate General Counsel (w/copy of complaint)  
Civil Rights Law Office  
Office of General Counsel (MC 2399A)

Sylvia Lowrance, Acting Assistant Administrator  
Office of Enforcement and Compliance Assurance (MC 2201A)

Barry E. Hill, Director (w/copy of complaint)  
Office of Environmental Justice (MC 2201A)  
Office of Enforcement and Compliance Assurance

Marsha L. Minter, Special Assistant  
Office of the Administrator (MC 1103A)

Robert Klepp, Title VI Contact  
Office of Water (MC 4203M)

Laura Yoshii, Acting Regional Administrator  
EPA Region 9

Gail Cooper, Title VI Coordinator (w/copy of complaint)  
Office of Regional Counsel  
EPA Region 9